

# **FREMONT UNIFIED SCHOOL DISTRICT**

Audit Report

## **EMERGENCY PROCEDURES, EARTHQUAKE PROCEDURES, AND DISASTERS PROGRAM**

Chapter 1659, Statutes of 1984

*July 1, 2000, through June 30, 2003*



**STEVE WESTLY**  
California State Controller

July 2005



**STEVE WESTLY**  
**California State Controller**

July 29, 2005

John Rieckewald, Ph.D., Superintendent  
Fremont Unified School District  
4210 Technology Drive  
Fremont, CA 94538

Dear Dr. Rieckewald:

The State Controller's Office audited the costs claimed by the Fremont Unified School District for the legislatively mandated Emergency Procedures, Earthquake Procedures, and Disasters Program (Chapter 1659, Statutes of 1984) for the period of July 1, 2000, through June 30, 2003.

The district claimed \$547,295 for the mandated program. Our audit disclosed that \$138,224 is allowable and \$409,071 is unallowable. The unallowable costs occurred because the district claimed unsupported costs. The State paid the district \$265,044. The district should return \$126,820 to the State.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

VINCENT P. BROWN  
Chief Operating Officer

VPB:JVB/ams

cc: Tom Woodruff

Assistant Superintendent, Business Services  
Fremont Unified School District

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the Fremont Unified School District for the legislatively mandated Emergency Procedures, Earthquake Procedures, and Disasters Program (Chapter 1659, Statutes of 1984) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was April 13, 2005.

The district claimed \$547,295 for the mandated program. Our audit disclosed that \$138,224 is allowable and \$409,071 is unallowable. The unallowable costs occurred because the district claimed unsupported costs. The State paid the district \$265,044. The district should return \$126,820 to the State.

## Background

Chapter 1659, Statutes of 1984, added and amended *Education Code* Sections 35295, 35296, 35297, 40041.5, and 40042. The law requires each school district and county superintendent of schools to establish an earthquake emergency procedure in each school building under its jurisdiction. In addition, the law requires that school districts allow public agencies to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting public health and welfare. This law further eliminates school districts' authority to recover direct costs from public agencies for the use of school facilities during local emergencies.

On July 23, 1987, the Commission on State Mandates (COSM) determined that Chapter 1659, Statutes of 1984, imposed a state mandate reimbursable under *Government Code* Section 17561.

*Parameters and Guidelines* establishes the state mandate and defines reimbursement criteria. COSM adopted the *Parameters and Guidelines* on March 23, 1989 (last amended on May 29, 2003). In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

## Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Emergency Procedures, Earthquake Procedures, and Disasters Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement.

Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

## **Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the Fremont Unified School District claimed \$547,295 for costs of the Emergency Procedures, Earthquake Procedures, and Disasters Program. Our audit disclosed that \$138,224 is allowable and \$409,071 is unallowable.

For fiscal year (FY) 2000-01, the State paid the district \$142,138. Our audit disclosed that \$32,428 is allowable. The district should return \$109,710 to the State.

For FY 2001-02, the State paid the district \$122,906. Our audit disclosed that \$38,574 is allowable. The district should return \$84,332 to the State.

For FY 2002-03, the State made no payment to the district. Our audit disclosed that \$67,222 is allowable, which the State will pay contingent upon available appropriations.

## **Views of Responsible Official**

We issued a draft audit report on June 15, 2005. John Rieckewald, Ph.D., Superintendent, responded by letter dated June 28, 2005 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

## **Restricted Use**

This report is solely for the information and use of the Fremont Unified School District, the Alameda County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

# Schedule 1— Summary of Program Costs July 1, 2000, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2000, through June 30, 2001</u>				
Salaries and benefits	\$ 141,048	\$ 30,706	\$ (110,342)	Finding 1
Materials and supplies	469	469	—	
Contract services	—	—	—	
Total direct costs	141,517	31,175	(110,342)	
Indirect costs	5,689	1,253	(4,436)	Finding 1
Total direct and indirect costs	147,206	32,428	(114,778)	
Less offsetting savings/reimbursements	—	—	—	
Total program costs	<u>\$ 147,206</u>	32,428	<u>\$ (114,778)</u>	
Less amount paid by the State		(142,138)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (109,710)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Salaries and benefits	\$ 252,608	\$ 37,259	\$ (215,349)	Finding 1
Materials and supplies	—	—	—	
Contract services	17,950	—	(17,950)	Finding 2
Total direct costs	270,558	37,259	(233,299)	
Indirect costs	9,551	1,315	(8,236)	Findings 1, 2
Total direct and indirect costs	280,109	38,574	(241,535)	
Less offsetting savings/reimbursements	—	—	—	
Total program costs	<u>\$ 280,109</u>	38,574	<u>\$ (241,535)</u>	
Less amount paid by the State		(122,906)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (84,332)</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries and benefits	\$ 107,356	\$ 64,407	\$ (42,949)	Finding 1
Materials and supplies	—	—	—	
Contract services	7,600	—	(7,600)	Finding 2
Total direct costs	114,956	64,407	(50,549)	
Indirect costs	5,024	2,815	(2,209)	Findings 1, 2
Total direct and indirect costs	119,980	67,222	(52,758)	
Less offsetting savings/reimbursements	—	—	—	
Total program costs	<u>\$ 119,980</u>	67,222	<u>\$ (52,758)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 67,222</u>		

**Schedule 1 (continued)**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference <sup>1</sup></u>
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Salaries and benefits	\$ 501,012	\$ 132,372	\$ (368,640)	Finding 1
Materials and supplies	469	469	—	
Contract services	<u>25,550</u>	<u>—</u>	<u>(25,550)</u>	Finding 2
Total direct costs	527,031	132,841	(394,190)	
Indirect costs	<u>20,264</u>	<u>5,383</u>	<u>(14,881)</u>	Findings 1, 2
Total direct and indirect costs	547,295	138,224	(409,071)	
Less offsetting savings/reimbursements	<u>—</u>	<u>—</u>	<u>—</u>	
Total program costs	<u>\$ 547,295</u>	138,224	<u>\$ (409,071)</u>	
Less amount paid by the State		<u>(265,044)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (126,820)</u>		

<sup>1</sup> See the Findings and Recommendations section.



# Findings and Recommendations

## **FINDING 1— Unallowable salary, benefit, and related indirect costs**

The district claimed unallowable salary and benefit costs totaling \$368,640 for the audit period. The related indirect costs total \$13,915. The unallowable costs occurred because costs claimed were not supported with adequate source documentation or were not reimbursable under the mandated program.

The district claimed salary and benefit costs in two ways: by individual employee and by employee classification (principal, vice principal, teacher, etc.). When claiming costs by employee classification, the district claimed multiple employees as one line item.

For the audit period, the district claimed \$352,547 in salary and benefit costs by individual employee. Of this amount, our audit disclosed unallowable costs totaling \$267,311. For each fiscal year, we selected a statistical dollar unit sample from total costs claimed by individual employee, using a 95% confidence level, a precision rate of +/-8%, and an expected error rate of 50%. We reviewed a statistical sample to project the sample results to the population. The unallowable costs occurred because:

- Costs claimed were supported only by declarations;
- Time logs were not completed contemporaneously;
- Time logs did not show the date(s) employees performed mandated activities;
- The district claimed duplicate costs;
- The district claimed costs for activities that were not mandate-related;
- The district claimed costs for activities performed outside the audit period; or
- The district did not provide any supporting documentation.

Of the unallowable costs for FY 2001-02, \$3,604 is also unallowable because the employees' salary and benefit costs were funded through restricted fund sources.

For the audit period, the district claimed \$148,465 of salary and benefit costs by employee classification. Of this amount, our audit disclosed unallowable costs totaling \$101,329. The unallowable costs resulted from training costs claimed for teachers. The district claimed costs based on declarations that indicated the number of teachers and time spent for training activities. However, the district did not provide sufficient source documents (e.g., time logs, sign-in sheets, meeting agendas, etc.) to support the declarations. In addition, some declarations indicated that the information reported might be estimates, rather than actual time. Furthermore, a portion of teachers' training time claimed included time spent during school earthquake drills.

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Salary and benefit costs:				
Claimed by individual employee	\$ (50,196)	\$(189,869)	\$ (27,246)	\$(267,311)
Claimed by employee classification	(60,146)	(25,480)	(15,703)	(101,329)
Total salary and benefit costs	(110,342)	(215,349)	(42,949)	(368,640)
Related indirect costs	(4,436)	(7,602)	(1,877)	(13,915)
Audit adjustment	<u>\$(114,778)</u>	<u>\$(222,951)</u>	<u>\$ (44,826)</u>	<u>\$(382,555)</u>

*Parameters and Guidelines* states:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include . . . declarations. However, corroborating documents cannot be substituted for source documents.

Regarding reimbursable activities, *Parameters and Guidelines* states:

. . . in-classroom teacher time spent on the instruction of students on the earthquake emergency procedure system is not reimbursable.

To claim salary and benefit costs, *Parameters and Guidelines* requires districts to:

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate. . . . Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

To claim training costs, *Parameters and Guidelines* requires districts to:

. . . Report the name and job classification of each employee [attending training]. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro rata portion can be claimed. . . .

### Recommendation

We recommend the district support salary and benefit costs claimed with actual time records that meet the requirements of *Parameters and Guidelines*.

### District's Response Regarding Non-Mandated-Related Training Activities

It is our understanding, from the exit interview and Finding 2 of the draft report, that the SCO found that the training provided by Lifesafety Associates was not mandate related and therefore 100% of the costs claimed for the Lifesafety Associates contract and for the time spent by District staff at these trainings was disallowed. We strongly disagree with this conclusion. The training provided by Lifesafety Associates was fully consistent with the requirements of Education Code Sections 35295 – 35297 as they existed during the claims period in question<sup>1</sup>, and with the Parameters and Guidelines for this mandate both as amended in 1991 and in 2003. . . .

The training conducted by the District is precisely what was intended by the Legislature and fully complies with the Parameters and Guidelines. The legislation mandates that school districts take appropriate action to prepare for earthquake emergencies. This includes training district staff to react to a potential earthquake emergency in a manner that will, as much as possible, protect students and staff from harm. . . . The District made an informed decision to prepare for earthquake emergencies through training that emphasized the concepts of the Incident Command system (ICS) and the Standardized Emergency Management System (SEMS) of California. This is an entirely reasonable local decision regarding how to meet the general requirements of the statute and the specific requirements of the Parameters and Guidelines – to develop a program to ensure that District staff “are aware of, and properly trained in, the earthquake emergency procedure system.”

To be clear, the District is not arguing the SEMS training is mandated and therefore costs related to such training must be reimbursed. Instead, the District is arguing that the training provided to its staff fulfills the legislative mandate and complies with the Parameters and Guidelines and therefore cannot be rejected simply because it also emphasizes concepts related to ICS and SEMS. We have carefully reviewed the training materials – all of the training was directly relevant to earthquake emergency procedures. None of the training focused on non-earthquake emergencies such as hostage situations, toxic spills, air attacks, etc.

We note that the draft audit report states that the district did not provide documentation to segregate the mandate-related and non-mandate related costs. The District is prepared to segregate any non-mandate related activities undertaken during the training if SCO staff can specifically identify activities that are not related to training and preparation for earthquake emergencies. We have not found such non-related activities and respectfully suggest that if the title of the training had been “earthquake emergency preparation” there would be no issue of disallowance. We do not believe the Legislature, Commission on State Mandates, or the SCO intend for reimbursable activities to be dependent on title rather than substance. . . .

The District provided sign-in sheets as appropriate source documentation for these trainings. However, if some of this documentation includes duplicate costs the District regrets the inadvertent mistake and does not challenge the disallowance of specifically identified duplicate costs.

<sup>1</sup> Following amendments by AB 2855 (Chapter 895, Statutes of 2004) the requirements are now contained in Section 32282.

SCO's Comment Regarding Non-Mandated-Related Training Activities

Our audit adjustment and recommendation remain unchanged. Our finding was modified to include the criterion related to reimbursable training costs. The district's response focuses on unallowable costs related to training provided by Life Safety Associates. Our finding is based on training content rather than training title. We do not contest that the training may have included topics directly related to earthquake emergencies. However, documentation submitted shows that the training also included non-mandate-related topics. The district provided no additional documentation to segregate mandate and non-mandate-related costs associated with this training.

Life Safety Associates provided standardized emergency management system (SEMS) training, which included incident command systems (ICS), medical emergency response team (MERT), and search and rescue (SAR) training. The district conducted SEMS training in accordance with *Government Code* Section 8607. This law states in part that the system shall be applicable, but not limited to, those emergencies or disasters referenced in the state emergency plan. It also states that SEMS shall include ICS. *California Code of Regulations*, Title 19, Section 2402, defines an emergency as follows.

“Emergency” means a condition of disaster or of extreme peril to the safety of persons and property caused by such conditions as air pollution, fire, flood, hazardous material incident, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestations or disease, [earthquake], or other conditions, other than conditions resulting from a labor controversy.

During our audit fieldwork, the district provided documentation showing that SEMS and related training were not limited to earthquake emergencies. This documentation includes the following items.

- An intradistrict memorandum from the district's Facilities Management Department, dated January 14, 2002, that states in part, “Training is a critical next step in implementing the District's plan and being ready for a disaster of any type.”
- A SEMS *Student Reference Manual* that states the SEMS training, “. . . is intended to give students a basic overview of SEMS, including reference to the law and regulations, standard terms and definitions, and training needs.” The manual also states that SEMS includes ICS, and that ICS was adopted as the standard all-hazards response system.
- A document titled “Introduction to the Incident Command System,” which states in part, “. . . ICS is able to provide flexibility and adaptability, enabling it to be applied to a variety of incidents and events – large or small.”
- A MERT training agenda, which states in part, “The purpose of the MERT Program is to provide advanced medical emergency training to the non-healthcare professional. . . . This care is delivered during ‘everyday’ emergencies and in the event of local disaster (such as earthquake, explosion, Haz Mat spill, etc.).”

- An agenda for disaster emergency response team training. The agenda states in part, “The purpose of the Disaster Preparedness Refresher Program is to review all skills, improve retention, and increase confidence and overall competency. . . . This care is delivered during ‘everyday’ emergencies and in the event of local disaster (such as earthquake, explosion, Haz Mat spill, etc.).”

#### District’s Response Regarding Application of *Parameters and Guidelines*

Based on the exit interview and the draft audit report, it is our understanding that a significant portion of the unallowable salary and benefits costs are due to a finding that some District documentation (primarily school-site documentation) included employee classification rather than employee names. In summarizing its reason for disallowances found in “Finding One” the SCO states that the Parameters and Guidelines require districts to, “report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate.” (Parameters and Guidelines as amended in 2003). The SCO is accurate in citing these Parameters and Guidelines but fails to note that these Parameters and Guidelines were not in existence at the time the documentation used to file the claims was created. The Parameters and Guidelines in existence, and therefore the direction understood by the District, state “for those employees whose function is to prepare and implement emergency plans and to provide instruction, provide a listing of each employee, describe their function, their hourly rate of pay . . .” (Parameters and Guidelines as amended in 1991.) The District’s documentation complies with the Parameters and Guidelines that existed at the time the claims were filed.

Although the later amended Parameters and Guidelines describe a higher level of documentation required to substantiate a claim, it cannot be expected that the District could have known this would ultimately be the case and prepare documentation accordingly years in advance of this amendment. It is simply not reasonable to apply specific documentation requirements retroactively. Further complicating the process is the fact the SCO written Claiming Instructions, intended to assist claimants in filing their mandated cost reimbursement claims, guides claimants down a different path than suggested by the Parameters and Guidelines. Claiming Instructions in place at the time advise claimants they can “Identify the employee(s), and/or show the classification of the employee(s) involved, describe the mandated functions. . .” (Claiming Instructions Revised 10/96 and reissued 8/29/2000). The District’s documentation complies with these instructions.

In any case, the documentation provided by the District is reasonable and functionally no less credible than documentation that added specific names to go along with employee classifications. The fact that the documentation is reasonable is supported by SCO’s claiming instructions. . . .

#### SCO’s Comment Regarding Application of *Parameters and Guidelines*

Our audit adjustment and recommendation remain unchanged. Our finding was modified to include the criterion related to reimbursable training costs. While the audit finding separately identifies costs claimed by employee classification, the fact that the district claimed costs by employee classification is not the reason costs are unallowable. All

unallowable costs claimed by employee classification are related to costs claimed for teachers. Unallowable costs resulted because:

- The district claimed costs based on employee declarations that were not supported by sufficient source documentation (e.g., time logs, sign-in sheets, meeting agendas, etc.);
- Employee declarations stated that the information reported might be estimated rather than actual time; and
- A portion of teachers' training time claimed included time spent during school earthquake drills, which is not a reimbursable activity under *Parameters and Guidelines*.

The district believes that *Parameters and Guidelines*, amended May 2003, is not applicable to the district's claims for the audit period. However, *Parameters and Guidelines*, amended May 2003, states, "...these amendments will apply to claims filed in fiscal year 2000-2001 through 2002-2003." The May 2003 amendments clarify, rather than revise, the pre-existing documentation requirements contained in *Parameters and Guidelines*, amended February 1991, which states, "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs." *Parameters and Guidelines*, amended May 2003, did not implement a higher level of documentation required to substantiate a claim. In addition, the requirement to report actual costs and the provision regarding non-reimbursable teachers' training time existed before *Parameters and Guidelines*, amended May 2003.

The district also cites SCO's claiming instructions as criteria to assert that its documentation is acceptable. However, SCO's claiming instructions state, "The claiming instructions contained in this manual are issued for the sole purpose of assisting claimants with the preparation of claims for submission to the State Controller's Office. . . . Therefore, unless otherwise specified, these instructions should not be construed in any manner to be statutes, regulations, or standards." Information required to submit a claim is not equivalent to supporting documentation required to substantiate a claim. Furthermore, the district did not quote the full text of the claiming instructions, which goes on to state, "Source documents required to be maintained by the claimant may include, but are not limited to, employee time cards and/or cost allocation reports."

**FINDING 2—  
Unallowable contract  
services costs**

The district claimed unallowable contract services costs totaling \$25,550 for the audit period. The related indirect costs total \$966.

Contract services costs claimed totaling \$19,585 included activities outside the scope of the mandated program. Supporting documentation did not show that these costs were incurred for mandate-related activities only (i.e., that the activities performed were for an earthquake emergency procedures system only). In addition, the district did not provide documentation to segregate the mandate-related and non-mandate-related costs. The district did not provide any supporting documentation for the remaining \$5,965 claimed.

The following table summarizes the audit adjustment:

	Fiscal Year		Total
	2001-02	2002-03	
Contract services costs:			
Non-mandate-related	\$ (11,985)	\$ (7,600)	\$ (19,585)
Unsupported	(5,965)	—	(5,965)
Total contract services costs	(17,950)	(7,600)	(25,550)
Related indirect costs	(634)	(332)	(966)
Audit adjustment	<u>\$ (18,584)</u>	<u>\$ (7,932)</u>	<u>\$ (26,516)</u>

*Parameters and Guidelines* states that only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. For this program, *Parameters and Guidelines* identifies mandated activities as those activities related to an earthquake emergency procedure system, and activities related to mass care and welfare shelters for earthquake and other disasters. The district claimed costs for earthquake emergency procedure system activities only.

#### Recommendation

We recommend the district claim only those contract services costs that are related to the mandated program. We also recommend the district ensure that contract services costs claimed are supported by source documents that show the validity of such costs and their relationship to the reimbursable activities.

#### District's Response

The district did not respond regarding the unsupported costs totaling \$5,965. Refer to Finding 1 for the district's comment regarding remaining unallowable costs.

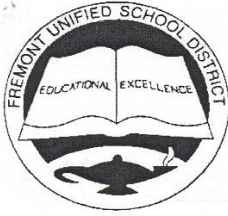
#### SCO's Comment

Our finding and recommendation remain unchanged. Refer to Finding 1 for SCO's comment regarding non-mandate-related costs.

**Attachment—  
District's Response to  
Draft Audit Report**

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# **FREMONT UNIFIED SCHOOL DISTRICT**

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June 28, 2005

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California State Controller's Office  
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RE: Emergency Procedures, Earthquake Procedures, and Disasters  
Program July 1, 2000, through June 30, 2003

This letter responds to the draft audit report issued by the State Controller's Office (SCO) with regard to costs claimed by Fremont Unified School District (District) for the legislatively mandated Emergency Procedures, Earthquake Procedures, and Disasters Program (Chapter 1659, Statutes of 1984) for the period of July 1, 2000 through June 30, 2003. While we appreciate the professional courtesy of the SCO staff, particularly during our exit interview on April 13, 2005, we disagree with some of the major assumptions behind both the findings and the disallowances. Following receipt of these comments, it is our hope that the SCO will modify some of the assumptions contained in the draft report and recalculate the allowable costs claimed by the District.

Please note that this letter does not represent a complete list of the District's disagreements with the draft audit report, and that the District reserves the right to raise other issues (if necessary) in subsequent proceedings related to the SCO's audit of these claims.

Disallowed costs based on allegation that specific District training activities were not mandated related.

It is our understanding, from the exit interview and Finding 2 of the draft report, that the SCO found that the training provided by Lifesafety Associates was not mandate related and therefore 100% of the costs claimed for the Lifesafety Associates contract and for time spent by District staff at these trainings was disallowed. We strongly disagree with this conclusion. The training provided by Lifesafety Associates was fully consistent with the requirements of Education Code Sections 35295 – 35297 as they existed during the claims period in question<sup>1</sup>, and with the Parameters and Guidelines for this mandate both as amended in 1991 and in 2003.

<sup>1</sup> Following amendments by AB 2855 (Chapter 895, Statutes of 2004) the requirements are now contained in Section 32282.

In relevant part, former Education Code Section 35296 contains the mandate that every district must “establish an earthquake emergency procedure system in every public school building under its jurisdiction . . .” and Section 35297 clarifies that this system “shall include, but not be limited to . . . a program to ensure that the students and that both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.” The Parameters and Guidelines, as amended in 1991, specifically include as reimbursable costs “consultants, directly engaged in providing instruction to other employees and students of the district in earthquake and disaster procedures” and the “cost incurred by the district of employees attending these meetings to receive instruction.” (See page 2, section B.1.(a).) As amended in 2003, the Parameters and Guidelines restate the statutory language quoted above and specifically include on-going training as a reimbursable activity. (See page 3, section A.1.)

The training conducted by the District is precisely what was intended by the Legislature and fully complies with the Parameters and Guidelines. The legislation mandates that school districts take appropriate action to prepare for earthquake emergencies. This includes training district staff to react to a potential earthquake emergency in a manner that will, as much as possible, protect students and staff from harm. The District straddles the Hayward fault and therefore takes this issue very seriously as a critical component of student and staff safety. The District made an informed decision to prepare for earthquake emergencies through training that emphasized the concepts of the Incident Command System (ICS) and the Standardized Emergency Management System (SEMS) of California. This is an entirely reasonable local decision regarding how to meet the general requirements of the statute and the specific requirements of the Parameters and Guidelines – to develop a program to ensure that District staff “are aware of, and properly trained in, the earthquake emergency procedure system.”

To be clear, the District is not arguing the SEMS training is mandated and therefore costs related to such training must be reimbursed. Instead, the District is arguing that the training provided to its staff fulfills the legislative mandate and complies with the Parameters and Guidelines and therefore cannot be rejected simply because it is also emphasizes concepts related to ICS and SEMS. We have carefully reviewed the training materials - all of the training was directly relevant to earthquake emergency procedures. None of the training focused on non-earthquake emergencies such as hostage situations, toxic spills, air attack, etc.

We note that the draft audit report states that the district did not provide documentation to segregate the mandate-related and non-mandate related costs. The District is prepared to segregate any non-mandate related activities undertaken during the trainings if SCO staff can specifically identify activities that are not related to training and preparation for earthquake emergencies. We have not found such non-related activities and respectfully suggest that if the title of the training had been “earthquake emergency preparation” there would be no issue of disallowance. We do not believe the Legislature, the Commission on State Mandates, or the SCO intend for reimbursable activities to be dependent on title rather than substance.

The finding that the District’s training was not mandate related results in a significant portion of the disallowance calculated in the draft audit report. We request that the SCO re-examine this issue and recalculate the District’s allowable costs based on a finding that the training was mandate related and that both the contract costs and time for staff to attend the trainings should be reimbursed. The District provided sign-in sheets as appropriate source documentation for these trainings. However, if some of this documentation includes duplicate costs the District regrets the inadvertent mistake and does not challenge the disallowance of specifically identified duplicate costs.



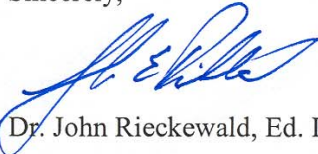
Disallowances for employee salary and benefit costs due to claiming costs by employee classification rather than employee name.

Based on the exit interview and the draft audit report, it is our understanding that a significant portion of the unallowable salary and benefits costs are due to a finding that the some District documentation (primarily school-site documentation) included employee classification rather than employee names. In summarizing its reason for disallowances found in "Finding One" the SCO states that the Parameters and Guidelines require districts to, "report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate." (Parameters and Guidelines as amended in 2003.) The SCO is accurate in citing these Parameters and Guidelines but fails to note that these Parameters and Guidelines were not in existence at the time the documentation used to file the claims was created. The Parameters and Guidelines in existence, and therefore the direction understood by the District, state "for those employees whose function is to prepare and implement emergency plans and to provide instruction, provide a listing of each employee, describe their function, their hourly rate of pay..." (Parameters and Guidelines as amended in 1991.) The District's documentation complies with the Parameters and Guidelines that existed at the time the claims were filed.

Although the later amended Parameters and Guidelines describe a higher level of documentation required to substantiate a claim, it cannot be expected that the District could have known this would ultimately be the case and prepare documentation accordingly years in advance of this amendment. It is simply not reasonable to apply specific documentation requirements retroactively. Further complicating the process is the fact the SCO written Claiming Instructions, intended to assist claimants in filing their mandated cost reimbursement claims, guides claimants down a different path than suggested by the Parameters and Guidelines. Claiming Instructions in place at the time advise claimants they can "Identify the employee(s), and/or show the classification of the employee(s) involved, describe the mandated functions..." (Claiming Instructions Revised 10/96 and reissued 8/29/2000). The District's documentation complies with these instructions.

In any case, the documentation provided by the District is reasonable and functionally no less credible than documentation that added specific names to go along with the employee classifications. The fact that the documentation is reasonable is supported by the SCO's claiming instructions. We respectfully request that the SCO review the draft audit report and recalculate the District's allowable costs based on a finding that this documentation was reasonable and therefore sufficient source documentation.

Sincerely,



Dr. John Rieckewald, Ed. D., Superintendent

Attachment

Copy: Paul Disario, Interim Assistant Superintendent, Business Services  
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